

## **REMARKS**

The Office Action mailed November 21, 2003 has been received and the Examiner's comments carefully reviewed. Claims 1, 5 and 19 have been amended and claims 17 and 18 have been cancelled. The amendment to claim 1 is supported in the specification at page 3, line 28, through page 4, line 1 (defining apex portions as "regions where two struts 14 are joined"). Claim 5 was revised to improve its readability. The amendment to claim 19 is supported at page 6 lines 8-29 (explaining that the apex portions are offset). No new subject matter has been added. Claims 1-16, 19 and 20 are pending in this application. Claims 3-8, 11, 17 and 18 have been withdrawn by the Examiner. Claims 17 and 18 have been cancelled as being directed to non-elected subject matter, but Applicants reserve the right to pursue such subject matter in continuation/divisional applications. Applicants respectfully submit that the pending claims are in condition for allowance.

### **A. Status of Claims 5-8**

The Office Action states that "claim 5-8 do not read on the elected species," because "figures 8 and 9 do not show tapered struts." Applicants submit that tapered struts are clearly shown in figures 8 and 9 and that the language in the specification cited by the Examiner does not suggest otherwise. In view of the above comments, Applicants request that claims 5-8 be examined as part of the present examination.

### **B. Anticipation**

Claims 1, 10, and 12 were rejected under 35 U.S.C. § 102(b) as being anticipated by *Wijay* (5,824,059). Claims 19 and 20 were rejected under 35 U.S.C. § 102(b) as being anticipated by *Pinchasik et al.* (5,449,373). Applicants respectfully traverse these rejections.

#### **1. Claims 1, 10 and 12**

Claim 1 recites a stent comprising, among other things, a stent body having a plurality of adjacent circumferential support structures spaced apart along a longitudinal axis, each support structure including longitudinal struts and apex portions, the apex portions forming junctions between adjacent longitudinal struts of each of the support structures, at least some of the apex portions of adjacent circumferential support structures being configured to longitudinally overlap

one another when in the undeployed configuration, a plurality of circumferential connecting struts interconnecting at least some of the adjacent circumferential support structures, the circumferential connecting struts extending between the apex portions that overlap one another.

With respect to *Wijay*, the Examiner contends that the curved portions at the intersections of the circumferential connecting strut 46 and the longitudinal struts 34, 48 constitute "apex portions." However, as amended, claim 1 specifies that the "apex portions" form junctions between adjacent longitudinal struts of each of the support structures. The struts 46 of *Wijay* extend between single struts 48, 34 of adjacent support structures. The curved portions of the single strut 48 does not include any junction between adjacent longitudinal struts of the support structure 12, and the strut 34 does not include any junction between adjacent longitudinal struts of the support structure 14. Therefore, the curved portions referenced by the Examiner are not "apex portions", and *Wijay* does not disclose longitudinal overlaps between "apex portions", as recited by claim 1. Accordingly, *Wijay* does not anticipate claim 1, and withdrawal of the anticipation rejection is respectfully requested.

Claims 10 and 12 depend on and further limit claim 1, and accordingly, they are not anticipated for at least the same reasons.

## **2. Claims 19 and 20**

Claim 19 recites a stent comprising, among other things, a plurality of adjacent circumferential support structures spaced- apart along the longitudinal axis; each support structure including longitudinal struts interconnected at apex portions, wherein some pairs of adjacent circumferential support structures have adjacent apex portions that oppose one another, and other pairs of adjacent support structures have adjacent apex portions that are circumferentially staggered so as to not oppose one another.

*Pinchasik et al.* fails to disclose a stent having apex portions that are circumferentially staggered from one another when the stent body is generally straight. For example, referring to Figs. 2A and 2C of *Pinchasik et al.*, despite the presence of links 112, the peaks at the tail end 106 of each support oppose and are longitudinally aligned with the peaks at the front end of an adjacent support. Thus, links 112 do not provide circumferential staggering of the apexes, as claimed. Accordingly, claim 19 is not anticipated by *Pinchasik et al.* Claim 20 depends on and further limits claim 19, so it is not anticipated for at least the same reasons.

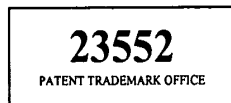
**C. Obviousness**

Claims 1, 2, 10, and 12 were rejected under 35 U.S.C. § 103(a) as being obvious over *Wijay*. Claims 9 and 13-16 were rejected under 35 U.S.C. § 103(a) as being obvious over *Wijay* in view of *Pinchasik*. Applicants respectfully traverse these rejections.

As indicated above, nowhere does *Wijay* disclose a stent having adjacent supports having "apex portions" that longitudinally overlap one another as required by claim 1. Further, there is no teaching, suggestion or motivation in *Wijay* to modify the disclosed stent to include such structure. This deficiency is not remedied by *Pinchasik*, which also fails to disclose longitudinally overlapping apex portions. In view of the above, withdrawal of the obviousness rejection is respectfully requested with respect to claim 1, and claims 2, 9, 10, 12 and 13-16 which depend from claim 1.

It is respectfully submitted that each of the presently pending claims (claims 1-16, 19 and 20) is in condition for allowance and notification to that effect is requested. The Examiner is invited to contact Applicant's representative at the below-listed telephone number if it is believed that the prosecution of this application may be assisted thereby.

Although certain arguments regarding patentability are set forth herein, there are many other arguments and reasons why the claimed invention is patentably distinct. Applicant reserves the right to raise these arguments in the future.



Dated: \_\_\_\_\_

2/23/04

Respectfully submitted,

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